

SUSAN RUSH - 9/2/2015

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ORIGINAL

SUSAN RUSH, an individual,) Case No. 2:2015-CV-01304
)
Plaintiff,)
)
v.)
)
SANTA MONICA POLICE)
OFFICER ROBERT FUJITA)
#3338; SANTA MONICA POLICE)
OFFICER L. LOPEZ #3805;)
CITY OF SANTA MONICA and)
DOES 1 through 50,)
inclusive,)
)
Defendants.)
_____) Pages 1 - 197

VIDEOTAPED DEPOSITION OF:

SUSAN RUSH

WEDNESDAY, SEPTEMBER 2, 2015

10:35 A.M.

REPORTED BY: c. jane harman
CSR No. 5266

1 artworks published. I don't understand the 11:10:42
2 question. 11:10:44

3 Q. I'm asking you if you are aware that he is 11:10:44
4 an artist that has actually displayed his items or 11:10:47
5 they're on Facebook and known -- and he's known by 11:10:51
6 his family as an artist? 11:10:56

7 MR. AVINA: Objection. Compound. I 11:10:58
8 mean ... yeah. 11:10:59

9 BY MS. ROHR: 11:11:00

10 Q. You can respond. 11:11:01

11 A. I don't know that side of him, but he -- 11:11:03
12 Henry has said that he's very artistic. 11:11:11

13 Q. On March 29th, 2014, do you recall what day 11:11:32
14 of the week that was? 11:11:39

15 A. I don't remember exactly right now. 11:11:41

16 Q. You do recall that that is the date that 11:11:57
17 you had contact with the Santa Monica Police 11:12:00
18 Department -- 11:12:02

19 A. Yes. 11:12:02

20 Q. -- officers; correct? 11:12:03

21 A. And I believe it was the weekend. I know 11:12:06
22 it was the weekend. 11:12:08

23 Q. You said -- 11:12:09

24 A. The weekend. 11:12:10

25 Q. Do you recall if it was a Friday or a 11:12:11

1 Saturday? 11:12:14

2 A. It was a Saturday or a Sunday. I believe 11:12:19
3 it was a Saturday. 11:12:24

4 Q. And earlier in the day before your contact 11:12:32
5 with the Santa Monica Police Department officers, 11:12:35
6 what had been your general activities? 11:12:38

7 A. I was at work at Yogitoes. 11:12:41

8 Q. At some point did you pick up your son and 11:12:52
9 his friend Ali in your car? 11:12:55

10 A. Yes. 11:12:58

11 Q. And what time was that? 11:12:59

12 A. Approximately 5:30, five ... somewhere 11:13:03
13 around there. Maybe a little later. 11:13:10

14 Q. And where did you pick them up? 11:13:15

15 A. At a friend's, a mutual friend's house in 11:13:18
16 Venice. 11:13:26

17 Q. And where were you intending to take them? 11:13:27

18 A. To get pizza. 11:13:32

19 Q. And where were you going to go? 11:13:34

20 A. It's called N.Y. & C in Santa Monica. 11:13:37

21 Q. And where was that located? 11:13:44

22 A. On Wilshire. 11:13:48

23 Q. How were you dressed when you picked them 11:13:52
24 up? 11:13:56

25 A. How was I dressed? I don't understand. 11:13:57

1	Q. What clothing did you have on?	11:13:59
2	A. I had on khakis and a light sweater and a	11:14:03
3	vest.	11:14:09
4	Q. That vest was black?	11:14:13
5	A. Navy.	11:14:15
6	Q. What was that vest made out of? Was it	11:14:17
7	fuzzy on the ... the fuzzy material?	11:14:22
8	A. No, a light down. J. Crew.	11:14:27
9	Q. On your way to get pizza, did you drive on	11:14:39
10	Broadway?	11:14:44
11	A. No.	11:14:47
12	Q. <u>Did you drive on 11th Street?</u>	11:14:48
13	A. <u>Yes.</u>	11:14:52
14	Q. What route did you take from picking them	11:14:53
15	up to go to NYC?	11:14:57
16	A. I don't remember exactly where I turned on	11:15:06
17	to 11th Street.	11:15:08
18	Q. What kind of car were you driving?	11:15:10
19	A. A Jetta.	11:15:12
20	Q. White?	11:15:16
21	A. Yes.	11:15:17
22	Q. Kind of a four by four?	11:15:21
23	A. It's called a SportWagen.	11:15:23
24	Q. At some point during your trip to go get	11:15:31
25	pizza did you note some activity wherein police	11:15:37

1 officers were talking to individuals? 11:15:41

2 A. No. 11:15:45

3 Q. Did you actually go get pizza? 11:15:48

4 A. No. 11:15:51

5 Q. And why didn't you go get pizza? 11:15:51

6 A. Because I saw some kids sitting on the curb 11:15:55
7 with police around them and I thought I might know 11:16:01
8 them. 11:16:04

9 Q. Where were you when you first saw kids 11:16:05
10 sitting on the curb and police around them? 11:16:10

11 A. On 11th Street. 11:16:14

12 Q. What direction were you going? 11:16:16

13 A. I was headed north to Wilshire. 11:16:20

14 Q. And how many kids did you see sitting on 11:16:29
15 the curb? 11:16:34

16 A. Four. 11:16:35

17 Q. What made you think that you might know 11:16:40
18 them? What was it about them that made you think 11:16:42
19 you did? 11:16:46

20 A. They just seemed familiar. 11:16:49

21 Q. Were they male or female? 11:16:59

22 A. Male. 11:17:04

23 Q. And when you saw -- strike that. 11:17:05

24 You said you saw police officers? 11:17:14

25 A. Yes. 11:17:17

1 Q. And how many did you see? 11:17:18

2 A. At least two. There could have been more, 11:17:20

3 I was -- I don't recall. 11:17:24

4 Q. And when you first saw the police officers, 11:17:27

5 could you tell if they were male or female or both 11:17:30

6 or neither? 11:17:34

7 A. When I first saw them? 11:17:36

8 Q. Yes. 11:17:38

9 A. I don't recall. 11:17:39

10 Q. They were in uniform? 11:17:43

11 A. Yes. 11:17:45

12 And I saw the car, the police cars, so ... 11:17:46

13 Q. How many police cars did you see? 11:17:49

14 A. I believe there were at least two, I'm 11:17:52

15 not -- 11:17:54

16 MR. AVINA: I'm sorry -- 11:17:55

17 THE WITNESS: -- sure. 11:17:55

18 MR. AVINA: -- object. Ambiguous and 11:17:57

19 compound as to time. 11:18:00

20 MS. ROHR: Well, I didn't ask time, I said 11:18:02

21 how many. 11:18:05

22 MR. AVINA: Right. It's ambiguous as to at 11:18:05

23 what point on March 29th, 2014. 11:18:08

24 MS. ROHR: That wasn't my question. 11:18:12

25 MR. AVINA: Well, that's my objection. 11:18:13

1 A. Yes.

11:19:16

2 MR. AVINA: And my objection would be that
3 your question misstates the prior testimony.

11:19:16

11:19:19

4 Your first -- your initial question
5 around -- regarding whether there was police
6 officers didn't include with them. Your second time
7 you asked the question you're including that the
8 officers were with them and that's vague as to what
9 that means, how were they with them.

11:19:23

11:19:25

11:19:28

11:19:31

11:19:34

11:19:37

10 THE WITNESS: (Nods head.)

11:19:40

11 BY MS. ROHR:

11:19:41

12 Q. When you first saw the four kids, you
13 also saw two or more police officers in the same
14 vicinity; correct?

11:19:41

11:19:46

11:19:50

15 A. I remember seeing a police car or cars. I
16 didn't notice police officers next to the kids
17 initially.

11:19:52

11:19:59

11:20:04

18 Q. Okay.

11:20:07

19 Oh, I thought you said you saw officers in
20 uniform.

11:20:08

11:20:12

21 A. When I walked closer, I did.

11:20:13

22 Q. Let's go back to when you're driving.

11:20:15

23 You're driving in the car on 11th Street.
24 Had you reached Broadway yet when you saw the four
25 kids on the curb and the police cars?

11:20:17

11:20:21

11:20:24

1 Q. From where you parked the car, could you 11:21:57
2 from that exact spot -- could you still see the four 11:21:59
3 kids sitting on the curb? 11:22:05

4 A. No, I don't believe so. 11:22:09

5 Q. From that location where you parked the car 11:22:14
6 before you went anywhere, could you see police cars? 11:22:19

7 A. I don't recall. 11:22:27

8 Q. From that position that you parked the car, 11:22:28
9 before you left the parked car, could you see any 11:22:32
10 police officers? 11:22:36

11 A. No. 11:22:39

12 Q. Now, when you parked the car, your son was 11:22:43
13 in the car; correct? 11:22:46

14 A. Correct. 11:22:48

15 Q. And also Ali was in the car? 11:22:49

16 A. Yes, Ali was in the car. 11:22:52

17 Q. How old was Ali at that point in time? 11:22:55

18 A. I believe they were both fifteen. 11:22:58

19 Q. Did you tell them why you were parking the 11:23:05
20 car? 11:23:09

21 A. Yes. 11:23:10

22 Q. What did you tell them? 11:23:11

23 A. I said, "I'm going to check on the kids, 11:23:12
24 I'll be right back." 11:23:15

25 Q. Did they ask you why you were doing that? 11:23:27

1 A. I don't recall. 11:27:31

2 Q. But you had noticed police cars already? 11:27:32

3 A. Yes, yes. 11:27:36

4 Q. When you were crossing the street as 11:27:37
5 pictured in the car video, did you have your cell 11:27:40
6 phone in your hand? 11:27:45

7 A. Umm, I don't recall. I had my keys. I 11:27:48
8 don't know if it was my pocket or my hand. 11:27:55

9 Q. You don't know if your cell phone was in 11:27:58
10 your pocket or your hand; is that correct? 11:28:00

11 A. I believe -- yes, I don't recall. 11:28:04

12 Q. And where were your keys? 11:28:13

13 A. In my hand. 11:28:16

14 Q. In which hand? 11:28:18

15 A. I don't recall. 11:28:20

16 Q. When you reached the corner of 11th and 11:28:26
17 Broadway, the corner where the kids were sitting on 11:28:31
18 the curb on Broadway, did you notice any police 11:28:34
19 officers in proximity to the four kids? 11:28:40

20 A. Yes. 11:28:45

21 Q. And where were they when you first noticed 11:28:46
22 the police officers? 11:28:50

23 A. One was at the far end of where the kids 11:28:52
24 were sitting. 11:28:57

25 Q. Was that a male or a female? 11:29:00

1	A. <u>A female.</u>	11:29:02.
2	Q. And did you see any other police officers?	11:29:11
3	A. Yes.	11:29:13
4	Q. How many?	11:29:15
5	A. One.	11:29:17
6	Q. And where was that police officer located?	11:29:18
7	A. He was next to the building that -- on	11:29:23
8	Broadway.	11:29:27
9	Q. Next to the building on Broadway?	11:29:28
10	A. (Nods head.)	11:29:31
11	Q. So he wasn't standing by the kids?	11:29:33
12	A. No.	11:29:41
13	Q. How far away from the kids was he?	11:29:42
14	A. He was quite a few feet where -- a	11:29:48
15	building -- the building.	11:29:58
16	Q. When you stepped up on the curb on the	11:30:06
17	corner of 11th and Broadway, how close was the	11:30:10
18	closest kid to you that was sitting on the curb on	11:30:17
19	Broadway?	11:30:22
20	A. I don't understand what you meant by that.	11:30:27
21	Q. You crossed the crosswalk; correct?	11:30:32
22	A. Yes.	11:30:34
23	Q. Did you step up on the curb?	11:30:35
24	A. Yes.	11:30:37
25	Q. When you stepped up on the curb on the	11:30:38

1 corner of 11th and Broadway, how close was the 11:30:40
2 closest kid that was sitting on the curb to you? 11:30:45

3 A. Just a few steps. 11:30:51

4 Q. Did you -- when you stepped up on the curb, 11:30:59
5 did you hear either of the police officers speaking 11:31:04
6 to anyone? 11:31:07

7 A. No. 11:31:09

8 Q. When you stepped up on the curb, did you 11:31:10
9 say anything to anyone? 11:31:14

10 A. To -- I asked one of -- the kid closest to 11:31:19
11 me if he could call his mom. 11:31:24

12 Q. You asked him if he could call his mom? 11:31:27

13 A. If he was able to call his mom. 11:31:30

14 Q. Did you ask the police officer if you could 11:31:33
15 speak to the children sitting on the curb? 11:31:36

16 A. No. 11:31:42

17 Q. Did you call him by name? 11:31:56

18 A. No. 11:31:59

19 Q. How close to the kid that you asked him if 11:32:07
20 he could call his mom was he to you when you asked 11:32:13
21 him that? 11:32:16

22 A. Fairly close. 11:32:22

23 Q. A foot? 11:32:24

24 A. Maybe. I don't recall. 11:32:27

25 Q. Did you sit down on the curb next to him? 11:32:32

1 A. I don't recall.

11:32:36

2 Q. Did he respond to your question?

11:32:49

3 A. No.

11:32:53

4 Q. At the point that you asked the first kid
5 closest to you if he could call his mom, did either
6 of the police officers say anything to you?

11:33:02

11:33:06

11:33:10

7 A. No, I don't recall.

11:33:16

8 Q. So everybody was quiet, meaning the four
9 kids, the two police officers, except you asking,
10 "Could you call your mom?"

11:33:17

11:33:28

11:33:33

11 Is that correct?

11:33:35

12 MR. AVINA: Objection. Misstates the
13 evidence. Ambiguous as to time as well.

11:33:36

11:33:38

14 BY MS. ROHR:

11:33:41

15 Q. We're at the same time when you just
16 stepped up on the curb.

11:33:41

11:33:44

17 Is that clear as to the time where we are?

11:33:47

18 A. Yes.

11:33:52

19 Q. Okay. Were you confused as to the time?

11:33:54

20 A. I'm not sure.

11:34:02

21 Q. Well, your attorney's objection is
22 indicating he was, but --

11:34:04

11:34:08

23 A. You're saying after I asked the one kid if
24 he could call his mom, that's the time that you're
25 referring to?

11:34:11

11:34:15

11:34:18

1	<u>Q. Yes, that moment --</u>	11:34:19
2	<u>A. Yes, that moment.</u>	11:34:20
3	<u>Q. -- when you made that statement, you were</u>	11:34:23
4	<u>the only one that spoke; correct?</u>	11:34:25
5	<u>A. Correct.</u>	11:34:29
6	<u>Q. None of the four kids were speaking;</u>	11:34:30
7	<u>correct?</u>	11:34:33
8	<u>A. Correct.</u>	11:34:33
9	<u>Q. And neither of the police officers said</u>	11:34:35
10	<u>anything; correct?</u>	11:34:38
11	<u>A. Correct.</u>	11:34:39
12	<u>Q. Then what took place after you asked the</u>	11:34:41
13	<u>first kid if he could call his mom?</u>	11:34:44
14	<u>A. I walked over to the police officer and</u>	11:34:50
15	<u>asked what was happening.</u>	11:34:56
16	<u>Q. Which police officer did you walk over to?</u>	11:35:01
17	<u>A. The male police officer.</u>	11:35:04
18	<u>Q. And where was he standing when you walked</u>	11:35:06
19	<u>up to him?</u>	11:35:09
20	<u>A. Next to the building.</u>	11:35:10
21	<u>Q. So he was still standing by the building?</u>	11:35:11
22	<u>A. Yes.</u>	11:35:14
23	<u>Q. And how many feet was he from -- strike</u>	11:35:16
24	<u>that.</u>	11:35:20
25	<u>How close was he to the building when you</u>	11:35:21

1 walked up to him?

11:35:23

2 A. Very close to it.

11:35:25

3 Q. Was his back against it?

11:35:28

4 A. I don't recall.

11:35:31

5 Q. But he was very close?

11:35:32

6 A. Yes.

11:35:34

7 Q. And you walked up to him and asked him,

11:35:35

8 "What's happening?"

11:35:41

9 A. Yes.

11:35:42

10 Q. Between the point that you had asked the
11 first kid on the curb if he could call his mom and
12 the point that you asked the male police officer
13 that was next to the building, "What's happening,"
14 had anyone said anything?

11:35:44

11:35:48

11:35:53

11:35:58

11:36:04

15 A. No.

11:36:06

16 Q. When you walked up to the male officer next
17 to the building, did you stand at his side or did
18 you stand in front of him and look at his face or
19 did you walk to his other side? What position did
20 you put yourself in?

11:36:18

11:36:21

11:36:28

11:36:31

11:36:34

21 MR. AVINA: Objection. Compound.

11:36:36

22 BY MS. ROHR:

11:36:37

23 Q. You can respond.

11:36:38

24 A. I don't recall.

11:36:40

25 Q. You don't recall your positioning relative

11:36:43

1 to the male police officer that you walked up to;
2 correct?

3 A. I was facing him because I was asking him a
4 question.

5 Q. So you recall standing and looking at his
6 face?

7 A. I'm sure I did see his face, yes.

8 Q. And when you asked him, "What's happening,"
9 did he respond?

10 A. He did not answer my question.

11 Q. Did he say anything after you said, "What's
12 happening?"

13 A. I don't recall what he said exactly.

14 Q. Did he say anything after you said, "What's
15 happening?" Did you hear him speak?

16 A. He said something, but I -- I don't recall.

17 Q. And is it your belief that he said
18 something in response to your asking him, "What's
19 happening?"

20 A. Well, he responded, but it wasn't -- it
21 didn't answer why they were there so I don't recall.

22 Q. After you said, "What's happening" and the
23 male officer said something that you don't recall at
24 this point, what is the next thing that took place?

25 A. I asked him for his name.

11:36:46

11:36:49

11:36:53

11:36:56

11:36:56

11:37:00

11:37:02

11:37:05

11:37:10

11:37:13

11:37:22

11:37:28

11:37:33

11:37:36

11:37:40

11:37:43

11:37:59

11:38:03

11:38:08

11:38:10

11:38:15

11:38:22

11:38:25

11:38:29

11:38:34

1 Q. At the point that you asked the male 11:38:44
2 officer for his name, where was the female officer 11:38:47
3 at that point? 11:38:51

4 A. She was at the far end where the kids were 11:38:53
5 sitting. 11:38:59

6 Q. Was she standing on the curb? 11:39:00

7 A. Not on the curb, no. 11:39:05

8 Q. Was she standing on the sidewalk? 11:39:07

9 A. Yes. 11:39:10

10 Q. And what was she doing? Was she just 11:39:13
11 standing there? 11:39:17

12 A. I believe so. 11:39:18

13 Q. Did she have anything in her hand that you 11:39:20
14 recall? 11:39:23

15 A. I don't recall. 11:39:25

16 Q. Up until the point that you asked the male 11:39:46
17 police officer for his name, had any of the kids 11:39:50
18 said anything? 11:39:54

19 A. No. 11:39:57

20 Q. Up until the point that you asked the male 11:39:57
21 police officer for his name, had the female officer 11:40:01
22 said anything? 11:40:04

23 A. No. 11:40:06

24 Q. What's the next thing that took place after 11:40:10
25 you asked the male officer for his name? 11:40:13

1 A. He asked me if my phone was a weapon and if
2 I was filming him.

3 Q. Earlier when I asked you when you were
4 walking across the street if you had your cell phone
5 in your hand, I believe you said you thought it was
6 in your pocket.

7 Is that correct?

8 A. No.

9 Q. It wasn't in your pocket when you were
10 crossing the street?

11 A. I don't recall.

12 Q. So you don't recall whether it was in your
13 pocket or not; correct?

14 A. Correct.

15 Q. At some point do you recall taking your
16 cell phone out of your pocket?

17 A. No.

18 Q. When you -- at the point that you state the
19 male police officer asked you if your phone was a
20 weapon and if you were filming him, was your phone
21 in your hand?

22 A. Yes.

23 Q. Which hand?

24 A. I believe my right hand (indicating).

25 Q. Had you then put your keys into your

11:40:17

11:40:24

11:40:39

11:40:43

11:40:46

11:40:50

11:40:51

11:40:52

11:40:53

11:40:55

11:40:56

11:40:57

11:41:00

11:41:01

11:41:02

11:41:07

11:41:09

11:41:15

11:41:20

11:41:23

11:41:28

11:41:30

11:41:31

11:41:33

11:41:36

1 pocket?

11:41:45

2 A. I don't recall.

11:41:45

3 Q. At the point that you asked the male
4 officer if -- if your phone was a weapon, if you
5 were filming him [sic], was he still next to the
6 building?

11:41:57

11:41:59

11:42:03

11:42:07

7 A. Yes.

11:42:08

8 Q. What's the next thing that took place after
9 he asked you if your phone was a weapon and if you
10 were filming him?

11:42:12

11:42:15

11:42:20

11 A. He took my phone.

11:42:21

12 Q. He took it from your hand?

11:42:24

13 A. Yes.

11:42:28

14 Q. And you're standing there next to him and
15 he's next to the building; correct?

11:42:28

11:42:31

16 A. He -- yes. I wouldn't say I'm next to him,
17 I had some distance from him.

11:42:35

11:42:38

18 Q. Approximately what was your distance from
19 had him?

11:42:40

11:42:42

20 A. (Moves chair.)

11:42:45

21 At least this far.

11:42:46

22 Q. Approximately two to three feet?

11:42:49

23 MR. AVINA: Also indicate the video isn't
24 indicating as to what point, is she referring to me?

11:42:51

11:42:56

25 Are you referring to me?

11:42:57

1 THE WITNESS: Yes, because I was trying to
2 write his name (indicating).

3 BY MS. ROHR:

4 Q. Okay. My question was: At the point that
5 he took your phone from your hand, how far -- you
6 said you were trying to keep a distance. How far
7 were you from the male officer?

8 A. I would say at least this far -- as far as
9 I am from Gabriel or maybe farther --

10 Q. So the --

11 A. -- closer to the corner.

12 Q. You were closer to the corner?

13 A. Where my kids were.

14 MS. ROHR: Counsel, your client indicates
15 she was approximately the distance that she is from
16 you. I would estimate that to be two to three feet.

17 Do you agree?

18 MR. AVINA: Yes.

19 THE WITNESS: And it could have been
20 farther, I don't recall.

21 BY MS. ROHR:

22 Q. And so when you were standing in that
23 position, were you next to the building, also?

24 A. Was I next to the building? I don't know
25 what you mean.

25 what you mean.

1 Q. You said the officer was next to a 11:44:14
2 building? 11:44:16

3 A. (Nods head.) 11:44:17

4 Q. So you indicated you were closer towards 11:44:18
5 the corner -- 11:44:21

6 A. Yes. 11:44:22

7 Q. -- towards 11th? 11:44:23

8 A. Yes. 11:44:27

9 Q. So were you also next to the building? 11:44:28

10 A. I was, I suppose, closer to the building 11:44:31
11 than the curb. I'm not sure. I don't recall. 11:44:37

12 Q. Were you between the officer and the four 11:44:43
13 kids sitting on the curb? 11:44:48

14 A. Between the officer ... no. 11:44:51

15 Q. Okay. The officer is against the building. 11:44:55
16 Was he standing behind where the four kids were on 11:44:57
17 the curb? 11:45:02

18 A. Behind, yes. 11:45:03

19 Q. Okay. You're talking with him. Are you 11:45:03
20 standing between him and the four kids when you're 11:45:07
21 talking to the male officer? 11:45:11

22 A. No, not between them. I was at the far end 11:45:14
23 of where the one kid I spoke to was sitting. 11:45:18

24 Q. So you were more towards 11th Street? 11:45:24

25 A. More towards the crosswalk. 11:45:28

1 Q. So after he asked you if the phone was a 11:45:33
2 weapon and you were filming him, the next thing that 11:45:39
3 happened was he took the phone from your right hand? 11:45:42

4 A. Correct. Yes, I believe it was in my right 11:45:45
5 hand. 11:45:50

6 Q. And what did you do when he took the phone 11:45:50
7 from your hand? 11:45:55

8 A. I don't recall. Like I said, he took my 11:46:01
9 phone and I didn't know what was happening. 11:46:06

10 Q. You don't recall what you said, though? 11:46:10

11 A. Not exactly, no. 11:46:13

12 Q. We're entitled -- excuse me. 11:46:16

13 We're entitled to your best estimate and 11:46:18
14 recollection. It doesn't have to be exactly. Do 11:46:22
15 you have a recollection of what you said when he 11:46:24
16 took your phone? 11:46:27

17 A. I remember him -- I remember saying, "He 11:46:29
18 took my phone," just thinking out loud because 11:46:32
19 it ... 11:46:36

20 Q. You just indicated that you kept a distance 11:46:41
21 between yourself of two to three feet and the male 11:46:45
22 officer and that you were trying to write his name 11:46:48
23 on your hand? 11:46:53

24 A. No, in my notes on my phone. 11:46:55

25 Q. Oh, you had gone to notes in your phone and 11:46:57

1 him, were the kids still sitting on the curb? 11:48:36

2 A. I believe so. 11:48:42

3 Q. Were their backs still to you? 11:48:44

4 A. I don't know. 11:48:47

5 Q. After you said the words, "He took my 11:48:47
6 phone," did the female officer say anything? 11:49:05

7 A. I believe she said, "He took your phone?" 11:49:09
8 Like a question. 11:49:14

9 Q. And at the point the female officer said 11:49:25
10 that, you're still standing approximately two to 11:49:28
11 three feet from the male officer more towards the 11:49:31
12 crosswalk that goes across 11th. 11:49:36

13 Is that correct? 11:49:42

14 A. I ... he walked away -- 11:49:44

15 Q. At what point -- 11:49:49

16 A. -- and I was standing there, yes. 11:49:51

17 Q. At what point did he walk away? 11:49:55

18 A. After he took my phone. 11:49:57

19 Q. What direction did he walk in when he 11:50:03
20 walked away? 11:50:06

21 A. He walked -- he was walking towards the 11:50:08
22 corner. 11:50:12

23 Q. And you stood where you had been standing, 11:50:22
24 you remained there? 11:50:25

25 A. I believe so, yes. 11:50:26

1 Q. Did you watch him as he was walking away? 11:50:30
2 A. No. 11:50:34
3 Q. What did you focus on after you observed 11:50:35
4 him to walk away? 11:50:40
5 A. I looked to the female officer. 11:50:42
6 Q. You looked at her? 11:50:46
7 A. Yes. 11:50:47
8 Q. And what did you do? 11:50:48
9 A. I said, "He took my phone." 11:50:50
10 Q. Did you walk over towards her or were you 11:50:53
11 just standing there? 11:50:55
12 A. I was standing. 11:50:57
13 Q. And you said she responded, "He took your 11:51:02
14 phone," like a question? 11:51:07
15 A. Yes. 11:51:08
16 Q. And what's the next thing that took place? 11:51:09
17 A. She received a call or something, I assume. 11:51:23
18 I heard her say, "Oh, they're free to go." 11:51:26
19 (Indicating.)
20 Q. When you say she received a call, you put 11:51:36
21 your hand up by your ear (indicating). Did she have 11:51:40
22 a phone in her hand or what was she talking on? 11:51:43
23 A. I don't -- I don't know. 11:51:46
24 Q. Well, how did you know she received a call? 11:51:47
25 A. It could have been an earpiece. I don't 11:51:51

1 know, I just remember her saying those words.

11:51:53

2 Q. And you believe she was saying those words
3 in response to receiving a call?

11:51:59

11:52:03

4 A. Yes.

11:52:05

5 Q. When she said they are free to go, was she
6 speaking into any type of microphone or device?

11:52:05

11:52:13

7 A. She must have been.

11:52:20

8 Q. Did you see one?

11:52:22

9 A. I don't recall.

11:52:24

10 Q. Was she standing in the same position that
11 you had seen her when you first crossed over to that
12 side of the street at the end of the four kids when
13 she said they are free to go?

11:52:27

11:52:30

11:52:34

11:52:39

14 A. Yes.

11:52:42

15 Q. What did you observe her do after she said
16 that?

11:52:46

11:52:50

17 A. She told them they could go.

11:52:52

18 Q. When she told them that they could go, was
19 she still standing on the sidewalk?

11:53:00

11:53:06

20 A. Yes.

11:53:10

21 Q. At the far end of the four boys that were
22 sitting on the curb; correct?

11:53:12

11:53:16

23 A. Correct.

11:53:18

24 Q. And you believe -- did she say, "Boys,
25 you're free to go," or what do you recall how she

11:53:22

11:53:26

1 communicated that to the four young men, boys, 11:53:34
2 juveniles that were sitting on the curb? 11:53:38

3 A. I believe she said, "You're free to go." 11:53:41

4 Q. Did you estimate the age of the four -- 11:53:46

5 we've been calling them boys, but they're more 11:53:49

6 teenager age -- about sixteen? Fifteen or sixteen? 11:53:54

7 A. I thought they were about fifteen. 11:54:00

8 Q. So you just heard her announce to them, 11:54:07

9 "You're free to go"? 11:54:10

10 A. Yes. 11:54:13

11 Q. Were they looking at her when she said 11:54:14

12 that? 11:54:18

13 A. I don't recall. 11:54:19

14 Q. Did any of the four fifteen-year-olds say 11:54:25

15 anything to the female officer after she said, "You 11:54:31

16 are free to go"? 11:54:35

17 A. No, I didn't hear anything. 11:54:40

18 Q. At the point that the female officer said 11:54:49

19 to the four boys sitting on the curb, "You are free 11:54:52

20 to go" -- strike that. 11:54:59

21 When the female officer said to the four 11:55:01

22 boys, "You are free to go," were they still sitting 11:55:04

23 on the curb in the same position that you had seen 11:55:07

24 them sitting when you first walked up? 11:55:10

25 A. Yes, I believe so. 11:55:13

1 Q. At the point that the female officer said 11:55:16
2 to you -- excuse me. 11:55:18

3 At the point the female officer said to the 11:55:22
4 boys they are free to go, do you know where the male 11:55:24
5 officer was? 11:55:27

6 A. No. 11:55:29

7 Q. Did you observe the four boys to stand up 11:55:33
8 and leave? 11:55:36

9 A. No. 11:55:37

10 Q. What did you observe take place after the 11:55:37
11 female officer said to the four boys, "You are free 11:55:41
12 to go"? 11:55:44

13 A. The male officer came back. 11:55:46

14 Q. In what direction did he come from? 11:55:54

15 A. From around the corner. 11:55:56

16 Q. So he had gone around the corner? 11:56:00

17 A. I believe so. 11:56:03

18 Q. Did you see him walk around the corner? 11:56:05

19 A. No. 11:56:09

20 Q. And when you say "around the corner," that 11:56:10
21 would have been the corner where you would walk 11:56:13
22 around, turn right, onto 11th Street? 11:56:17

23 A. Yes. 11:56:23

24 Q. At the point that you heard the female 11:56:23
25 officer say to the four boys, "You are free to go," 11:56:31

1 are you still standing in the same location that you 11:56:34
2 were in when you state that the male officer took 11:56:38
3 your cell phone? 11:56:42

4 A. Yes, I believe so. 11:56:45

5 Q. From that location were you able to see, 11:56:46
6 birds eye view, from where you were standing your 11:56:51
7 kids in the car in the parking lot? 11:56:56

8 A. No. 11:56:58

9 Q. And why weren't you able to? Was there 11:56:59
10 something blocking your view? 11:57:05

11 A. The parking lot is not directly across the 11:57:07
12 street (indicating). 11:57:09

13 Q. It's further up the street? 11:57:10

14 A. Well, it's behind the building that's 11:57:13
15 across the street. 11:57:15

16 Q. So you weren't -- from your position, you 11:57:16
17 weren't able to see where your kids were in your 11:57:18
18 white Jetta; correct? 11:57:22

19 A. Correct. 11:57:24

20 Q. Okay. At the point where the female 11:57:24
21 officer told the four boys they could go, you have 11:57:32
22 indicated the male officer came back? 11:57:36

23 A. Yes. 11:57:38

24 Q. And you don't know where he came from, 11:57:39
25 maybe from around the corner; correct? 11:57:42

1 A. Correct.

11:57:45

2 Q. When he came back, what did you observe him
3 to do?

11:57:46

11:57:50

4 A. He attacked me.

11:57:52

5 Q. So he came back around the corner, the kids
6 are sitting on the curb still; correct?

11:57:54

11:57:59

7 A. (Nods head.)

11:58:05

8 Q. "Yes"?

11:58:06

9 A. Yes.

11:58:08

10 Q. And the female officer is still at the far
11 end of the kids on the sidewalk; correct?

11:58:09

11:58:12

12 A. Correct.

11:58:17

13 Q. And the male officer came up and attacked
14 you?

11:58:19

11:58:22

15 A. Yes.

11:58:23

16 MS. ROHR: Why don't we take a break.

11:58:24

17 THE VIDEOGRAPHER: We're going off the
18 video record at 11:58 a.m.

11:58:27

11:58:29

19 (Recess taken from 11:58 to 12:19.)

11:58:40

20 THE VIDEOGRAPHER: And we're back on the
21 video record beginning disk two at 12:19 p.m.

12:19:21

12:19:56

22 BY MS. ROHR:

12:20:03

23 Q. When you were driving northbound on
24 11th Street approaching Broadway, how fast were you
25 driving?

12:20:03

12:20:07

12:20:10

1 BY MS. ROHR:

12:26:48

2 Q. Was your back to the building?

12:26:49

3 A. Building ... no.

12:26:52

4 Q. What was behind you?

12:26:56

5 A. The street, 11th Street. I was probably

12:27:01

6 turned towards 11th Street. I was trying -- I

12:27:07

7 wanted to get to my car, to my kids.

12:27:10

8 Q. So your -- you were facing more towards

12:27:15

9 11th?

12:27:20

10 A. I was facing more towards, I guess, west,

12:27:21

11 towards the water. I think.

12:27:27

12 Q. Now, you indicated the male officer

12:27:37

13 attacked you. Can you describe what you mean by

12:27:40

14 "attacked"?

12:27:44

15 A. He pulled my arm behind my back and threw

12:27:47

16 me to the ground.

12:27:55

17 Q. So when you were standing there in a

12:27:55

18 position more towards 11th, you've indicated, were

12:28:00

19 you standing with your arms to your side?

12:28:04

20 A. Probably, I don't recall.

12:28:11

21 Q. Were your hands in your -- the pockets of

12:28:14

22 your vest, your down vest?

12:28:18

23 A. I don't believe so.

12:28:22

24 Q. So you believe you were standing there with

12:28:22

25 your feet flat on the sidewalk and your arms down at

12:28:25

1 Q. The left arm? 12:31:19

2 A. Yes. 12:31:20

3 Q. So you recall the first time he touched you 12:31:21

4 it was your left arm? 12:31:25

5 A. I believe so, yes. 12:31:27

6 Q. And where was he standing -- strike that. 12:31:29

7 Where was he located when he first touched 12:31:33

8 your left arm? 12:31:36

9 A. I don't know what you mean. 12:31:40

10 Q. Was the officer standing behind you when he 12:31:42

11 first touched your left arm? 12:31:45

12 A. He may have been. It was very quick. 12:31:51

13 Q. Was the officer standing on your left side 12:31:55

14 when he first touched your left arm? 12:31:58

15 A. I believe so. 12:32:02

16 Q. Was the officer standing in front of you 12:32:03

17 when he first touched your left arm? 12:32:06

18 A. He did come to the front of me, yes 12:32:11

19 (indicating). 12:32:14

20 Q. And as he was coming to the front of you, 12:32:15

21 did he have contact with your left arm? 12:32:20

22 A. Yes. I ... 12:32:22

23 Q. "Yes"? 12:32:26

24 A. I believe so. 12:32:26

25 Q. Where on your left arm did he make contact 12:32:28

1 exactly sure where he ... I don't understand.

12:33:50

2 Q. Can you describe how the officer took your
3 left arm and put it behind your back?

12:33:57

12:34:01

4 A. How he did it?

12:34:04

5 Q. What did it (indicating)?

12:34:06

6 A. It went back (indicating) and then he threw
7 me to the ground. And then he was on top of my back
8 and I couldn't breathe.

12:34:08

12:34:14

12:34:18

9 Q. So after he took your left arm and put it
10 behind your back, you said he then took you to the
11 ground?

12:34:21

12:34:25

12:34:31

12 A. Yes.

12:34:33

13 Q. Was that a forward motion?

12:34:35

14 A. Yes.

12:34:38

15 Q. And at -- during the point that the officer
16 takes a hold of your -- the male officer takes a
17 hold of your left wrist, where was the female
18 officer?

12:34:42

12:34:50

12:34:54

12:34:59

19 A. She was where she'd been the whole time.

12:35:02

20 Q. On the sidewalk?

12:35:06

21 A. Yes.

12:35:07

22 Q. About how many feet away from you?

12:35:08

23 A. I don't know, at least eight feet or so.

12:35:17

24 Q. At the point that the male officer put your
25 left arm behind your back, was the female officer

12:35:21

12:35:27

1 still approximately eight feet away?

12:35:32

2 A. I don't know.

12:35:35

3 Q. Did you see her approach?

12:35:36

4 A. No.

12:35:40

5 Q. Did you see her leave the location that you

12:35:41

6 had previously seen her --

12:35:45

7 A. No.

12:35:46

8 Q. -- eight feet away?

12:35:47

9 A. No.

12:35:49

10 Q. Then after your arm was behind your back

12:35:52

11 when you went forward to the ground, did you know

12:35:54

12 where the female officer was?

12:36:00

13 A. No.

12:36:02

14 Q. When you are on the ground, you said you

12:36:06

15 felt something on your back?

12:36:11

16 A. Yes, the officer was on my back pressing

12:36:14

17 down.

12:36:22

18 Q. Where on your back?

12:36:23

19 A. I felt the most pressure here (indicating).

12:36:25

20 Q. If you can describe where "here" is for the

12:36:28

21 record. We have a written record.

12:36:30

22 A. (Indicating.)

12:36:35

23 Close to my upper back, I suppose.

12:36:38

24 Q. If you can turn around, you can put it on

12:36:42

25 the camera.

12:36:45

1 having a hard time hearing you when you're looking 12:42:12
2 at me, the court reporter is probably having a hard 12:42:15
3 time hearing you. 12:42:18

4 A. I don't recall if he handcuffed me while I 12:42:22
5 was on the ground or when I was standing up. 12:42:25

6 Q. On the day of the incident, how much did 12:42:38
7 you weigh? 12:42:41

8 A. I don't know. 12:42:43

9 Q. Approximately. 12:42:43

10 A. About one-twenty-five, one-twenty -- I 12:42:44
11 don't know. One-twenty-eight. I don't know. 12:42:53

12 Q. And how tall are you? 12:42:55

13 A. I'm five-five. 12:42:58

14 Q. When you made contact with the ground, 12:43:05
15 where were the four teenagers? 12:43:11

16 A. I don't know. 12:43:16

17 Q. When you were standing, saying and doing 12:43:29
18 nothing before the point in time that you maintain 12:43:32
19 the officer attacked you, were the four teenage boys 12:43:36
20 still sitting on the curb on Broadway facing 12:43:44
21 Broadway? 12:43:47

22 A. They left at a certain point, I'm not 12:43:49
23 exactly sure when. 12:43:53

24 Q. Earlier I believe I asked you if after you 12:43:59
25 heard Officer Lopez say they are free to go -- I 12:44:02

1 STATE OF CALIFORNIA)
2) ss
3 COUNTY OF LOS ANGELES)

4 I, c. jane harman, CSR No. 5266, in and
5 for the State of California do hereby certify:

6 That, prior to being examined, the
7 witness named in the foregoing deposition was by me
8 duly sworn to testify the truth, the whole truth,
9 and nothing but the truth;

10 That said deposition was taken down by me
11 in shorthand at the time and place therein named,
12 and thereafter reduced to typewritten form
13 direction, and the same is a true, correct and
14 complete transcript of said proceedings.

15 Before completion of the deposition,
16 review of transcript [☒] was [] was not requested.
17 If requested, any changes made by the deponent (and
18 provided to the reporter) during the period allowed
19 are appended hereto.

20 I further certify that I am not
21 interested in the event of the action.

22 WITNESS MY HAND this 14TH day of
23 SEPTEMBER, 2015.

24 C. jane harman
25 c. jane harman, CSR No. 5266